

§ 1614.4

the recipient's compliance with the requirements of this part.

(3) In private attorney models, attorneys may be reimbursed for actual costs and expenses. Attorney's fees paid may not exceed 50% of the local prevailing market rate for that type of service.

(4) All records pertaining to a recipient's PAI requirements which do not contain client confidences or secrets as defined by applicable state law shall be made available for inspection and review by LSC auditors and monitors during regular business hours.

§ 1614.4 Procedure.

(a) The recipient shall develop a plan and budget to meet the requirements of this part which shall be incorporated as a part of the refunding application or initial grant application. The budget shall be modified as necessary to fulfill this part. That plan shall take into consideration:

(1) The legal needs of eligible clients in the geographical area served by the recipient and the relative importance of those needs consistent with the priorities established pursuant to section 1007(a)(2)(C) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(C)) and part 1620 of the Regulations (45 CFR part 1620) adopted pursuant thereto;

(2) The delivery mechanisms potentially available to provide the opportunity for private attorneys to meet the established priority legal needs of eligible clients in an economical and effective manner; and

(3) The results of the consultation as required below.

(b) The recipient shall consult with significant segments of the client community, private attorneys, and bar associations, including minority and women's bar associations, in the recipient's service area in the development of its annual plan to provide for the involvement of private attorneys in the provision of legal assistance to eligible clients and shall document that each year its proposed annual plan has been presented to all local bar associations within the recipient's service area and shall summarize their response.

45 CFR Ch. XVI (10–1–02 Edition)

§ 1614.5 Prohibition of revolving litigation funds.

(a) A revolving litigation fund system is a system under which a recipient systematically encourages the acceptance of fee-generating cases as defined in §1609.2 of these regulations by advancing funds to private attorneys to enable them to pay costs, expenses, or attorneys fees for representing clients.

(b) No funds received from the Legal Services Corporation shall be used to establish or maintain revolving litigation fund systems.

(c) The prohibition in paragraph (b) of this section does not prevent recipients from reimbursing or paying private attorneys for costs and expenses, provided:

(1) The private attorney is representing an eligible client in a matter in which representation of the eligible client by the recipient would be allowed under the Act and under the Corporation's Regulations; and

(2) The private attorney has expended such funds in accordance with a schedule previously approved by the recipient's governing body or, prior to initiating action in the matter, has requested the recipient to advance the funds.

(d) Nothing in this section shall prevent a recipient from recovering from a private attorney the amount advanced for any costs, expenses, or fees from an award to the attorney for representing an eligible client.

§ 1614.6 Waivers.

(a) While it is the expectation and experience of the Corporation that most basic field programs can effectively expend their PAI requirement, there are some circumstances, temporary or permanent, under which the goal of economical and effective use of Corporation funds will be furthered by a partial, or in exceptional circumstances, a complete waiver of the PAI requirement.

(b) A complete waiver shall be granted by the Office of Field Services (OFS) when the recipient shows to the satisfaction of OFS that:

(1) Because of the unavailability of qualified private attorneys, an attempt